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SALV, LLC

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

SALV, LLC

Plaintiff

v.

CARRINGTON FORECLOSURE  
SERVICES, LLC and  
MORTGAGE ELECTRONIC  
REGISTRATION SYSTEMS, INC  
(MERS) and MOUNTAINVIEW  
MORTGAGE COMPANY  
and DOE or ROE DEFENDANTS

Defendants

Case # : 2:21-CV-02207-JCM-BNW

PLAINTIFF'S REPLY TO OPPOSITION TO MOTION TO ADD PARTIES

The Opposition to Plaintiff's motion by Defendants CARRINGTON FORECLOSURE SERVICES, LLC and MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC (MERS) [Defendants herein] solely argues that their pending Motion to Dismiss precludes adding necessary parties.

Defendants created the necessity to add BRECKENRIDGE PROPERTY FUND 2016, LLC as a party to this lawsuit by issuing a Trustee's Deed Upon Sale dated March 16, 2022. [Exhibit 3] This was with the knowledge of the pending lawsuit, and the recordation of a lis pendens.

Then BRECKENRIDGE PROPERTY FUND 2016, LLC created the necessity to add BANK OF THE WEST as a party to this lawsuit by signing the Deed of Trust, Fixture Filing and Security Agreement Deed, which was recorded

1 March 24, 2022. [Exhibit 4]

2  
3 RECORDING LIS PENDENS IS MANDATORY

4  
5 Recording a lis pendens is mandatory, non-discretionary and required  
6 pursuant to Nevada statute. See NRS 14.010(1), set forth below.

7  
8 NRS 14.010 Notice of pendency of actions affecting real  
9 property: Recording.

10 1. In an action for the foreclosure of a mortgage upon real  
11 property, or affecting the title or possession of real property, the  
12 plaintiff, at the time of filing the complaint, and the defendant, at the  
13 time of filing his or her answer, if affirmative relief is claimed in the  
14 answer, **shall record with the recorder of the county in which the**  
15 **property, or some part thereof, is situated, a notice of the**  
16 **pendency of the action**, containing the names of the parties, the  
17 object of the action and a description of the property in that county  
18 affected thereby, and the defendant shall also in the notice state the  
19 nature and extent of the relief claimed in the answer.

20 [emphasis added]

21 Defendants' deed was signed knowing of the pendency of this action.  
22 Both BRECKENRIDGE PROPERTY FUND 2016, LLC and BANK OF THE  
23 WEST were on notice of the pendency of this action based on the recorded Lis  
24 Pendens. [Exhibit 2]

25 Another Nevada statute logically and consistently provides that recording of  
26 the Lis Pendens is notice to any subsequent purchasers or interest holders.

27 NRS 111.320 Filing of conveyances **or other**  
28 **instruments** is notice to all persons: Effect on  
subsequent purchasers and mortgagees.

1 Every such conveyance **or instrument of writing**,  
2 acknowledged or proved and certified, and recorded in  
3 the manner prescribed in this chapter or in NRS 105.010  
4 to 105.080, inclusive, must from the time of filing the  
5 same with the Secretary of State or recorder for record,  
6 **impart notice to all persons of the contents thereof;**  
7 **and subsequent purchasers and mortgagees shall**  
8 **be deemed to purchase and take with notice.**

[Emphasis added]

#### 9 10 INDISPENSABLE PARTY

11 The Court should find that both BRECKENRIDGE PROPERTY FUND  
12 2016, LLC and BANK OF THE WEST are indispensable parties under Fed.  
13 R. Civ. P. 19(a)(1). Without them only incomplete relief would be possible for  
14 Plaintiff's declaratory relief and quiet title causes of action.

#### 15 16 DISCUSSION

17  
18 In the instant case, BRECKENRIDGE PROPERTY FUND 2016, LLC  
19 made itself a necessary and indispensable party to this litigation by recording  
20 the Trustee's Deed Upon Sale on March 24, 2022. [Exhibit 3]. BANK OF  
21 THE WEST then made itself a necessary and indispensable party to this  
22 litigation by recording the Deed of Trust, Fixture Filing and Security  
23 Agreement Deed on March 24, 2022. [Exhibit 4]

24 Failing to join these necessary parties would prevent accordane of  
25 complete relief among those already parties and must be granted. Lykins v.  
26 Westinghouse Electric, 710 F. Supp. 1122, 28 Env't Rep. Cas. (BNA) 1923,  
27 1988 U.S. Dist. LEXIS 16630 (E.D. Ky. 1988).

1 CONCLUSION

2  
3 At this time it is unknown what the relationship is between Defendants  
4 and either BRECKENRIDGE PROPERTY FUND 2016, LLC or BANK OF  
5 THE WEST. All that is known is that they have recorded documents which  
6 affect title to the Subject Property with knowledge of the pending quiet title  
7 litigation. Thus, they voluntarily made themselves necessary parties to the  
8 instant case while the case was pending, and after they were on notice of the  
9 pending lawsuit.

10 Both BRECKENRIDGE PROPERTY FUND 2016, LLC and BANK OF  
11 THE WEST are necessary and indispensable parties to the pending lawsuit  
12 and should be joined as interested parties.

13  
14 /s/ BENJAMIN B. CHILDS, ESQ.

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18 Attorney for Plaintiff  
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